

# Will Students with Disabilities Be Scapegoats for School Failures?

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*by Drew Allbritten, Richard Mainzer,  
and Deborah Ziegler*

**I**n 1975, P.L. 94-142, now known as the Individuals with Disabilities Education Act (IDEA), moved the special education debate from segregated programs that excluded students from access to schools and classrooms to more inclusion (also known as “mainstreaming”) with higher expectations.

In general, special educators have viewed IDEA as a special education law that the wider education community at best tolerates. Special educators know how often discussions end with “because IDEA requires it” rather than recognition of an opportunity for special students to excel. Unfortunately, parents who are veterans of the special education process also know the gap between what IDEA requires and what local school systems will actually tolerate.

Even though the No Child Left Behind Act (NCLB) of 2002 is primarily a law for students in regular education, it also constitutes a federal commitment that students with disabilities will receive genuine access to the general education curriculum. Its promise that students with disabilities will achieve at the same levels as other students is momentous for disabled students. Schools and school districts are to be held directly accountable for the learning progress of all students, explicitly including students with disabilities. NCLB mandates that schools include all students with disabilities, as well as students in the general education curriculum, in an assessment and accountability system. The law also requires schools to report the learning progress of students with disabilities each year separately from that of other students. NCLB refers to the minimum acceptable increase in performance measures as adequate yearly progress (AYP).

Although special educators welcome the federal government’s commitment to include all students in assessment and accountability sys-

tems, the commitment has numerous presumably unintended consequences. Moreover, the federal commitment depends on several factors, each of which must be well grounded in scientific and pragmatic knowledge. Few of them are. To the degree that NCLB has placed policy before knowledge, special educators, parents, and the public cannot have complete confidence in the law's promised outcome.

### **Measuring Adequate Yearly Progress (or Not)**

Put simply, the AYP provision of NCLB requires school districts to demonstrate each year that students with disabilities are making progress toward proficiency in the general curriculum. The goal is laudable: ensuring that such students catch up with all other students within twelve years. As momentous as that promise seems, though, the structure of NCLB's mandated performance will likely force school-accountability systems to subject students to unreasonable high-stakes threats—e.g., having to pass an exam to move from one grade to the next or to earn a high school diploma.

When states use such combined student- and school-accountability systems, ultimately requiring every student to achieve the same high standard, one likely result is disproportionately high dropout rates among at-risk students, particularly those with disabilities. A persuasive case can also be made that pre-test to post-test improvement or growth scores, which are widely used for measuring the learning progress of students with disabilities, are more appropriate for both general curriculum students and students with disabilities than are single-standard tests. All such information should be incorporated into AYP to render it a more accurate performance-based measure.

In a perfect world, students with disabilities would be tested at the grade level of their age mates. In the real world, however, such testing is not necessarily appropriate. In fact, most students with disabilities have received inadequate local school support and services for success at grade level, even if the severity of their disabilities doesn't preclude grade-level success. And even for regular education students, parents and teachers may have chosen to focus limited time and resources on equally important learning outcomes that are not measured by grade-level testing. In those situations grade-level testing does not accurately reflect student progress and achievement.

### **Accurate and Fair Accountability System (or the Lack Thereof)**

Special education professionals collectively embrace educational accountability to ensure the highest possible academic outcomes for students with disabilities. However, the commitment of NCLB assumes that

existing assessment systems are reliable and valid, when in fact current systems are neither reliable nor valid. For example, NCLB requires identifying students with disabilities who need alternate assessments, and the federal government has issued guidance stating that only an arbitrary one percent of students should need alternate assessments based on alternate achievement standards. In fact, the number of students with disabilities who will require alternate assessments based on alternate achievement standards is not known. Furthermore, the technology to identify every student with a disability who will need alternate assessments based on alternate achievement standards does not currently exist.

States are currently developing several different models for determining how many students need alternate assessments. The systems vary qualitatively, depending on how they are conceived and how they fit within a state's general assessment system. Because the numbers of students identified also vary widely, it is premature to claim any progress in establishing the validity and reliability of measures of the learning progress of students with disabilities. It is also significant that states have been slow to adopt procedures for including students with disabilities in



meaningful assessment systems. Given that six years later, many states have yet to implement fully the alternate assessment provisions from IDEA in 1997, it is clear that the field of special education is still just coming to grips with the issues surrounding alternate assessments.

How can AYP be accurately measured when the factors that determine AYP are not research based? That question so far remains unanswered, not only for the alternative assessments of special education but for the standardized assessments of general curriculum students as well.

### **Inconsistent Nomenclature**

To complicate matters further for special education students, the NCLB rule allows states to define which students have the most significant cognitive disabilities. IDEA requires the Individualized Education Program (IEP) team to make the decision about which students qualify for the alternate assessment.

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There is a potentially crippling inconsistency between the individual determination in IDEA and the limiting qualification contained in the state determination of the most significant cognitive disability. IEP teams will determine that alternate assessment is appropriate for students with mild mental retardation whose other disabilities make an alternate assessment most appropriate and who do not meet the state-determined criteria. Even more disruptive, allowing states to develop definitions and eligibility criteria for alternate assessments based on alternate achievement standards is not consistent with existing professional terminology and definitions, which will complicate data collection and analysis at a time when accurate research evidence is sorely needed. As NCLB is currently written, the new term “students with the most significant cognitive disabilities” and the one percent cap for the participation of students in alternate assessments based on alternate assessment standards and resultant AYP calculations may undermine the long-established IDEA policy of individualization within the context of the IEP development process.

Special educators support a single, statewide accountability system consistent with NCLB for all states. Through the Council for Exceptional Children (CEC), they support requiring states to include within their accountability systems a set of guidelines for identifying the students with disabilities who need alternate assessments, as well as a requirement that states specifically report the number of students with disabilities who take alternate assessments. However, even with those elements

of accountability in place, the performance of students who need alternate assessments based on alternate achievement standards, but who may not meet the state criteria for the “most significant cognitive disabilities” requirements, could be excluded or inaccurately weighted in school-related AYP calculations and in overall school district accountability determinations. That result would work to the detriment of the student, the school, and the school district, and there is reason to expect that if it happens, schools and school districts will shift as many of the consequences as they can from themselves to the students.

### **The Legacy of Being Perceived as a Burden**

Despite IDEA’s guarantees (e.g., free, appropriate public education [FAPE], due process protections, state and federal monitoring, and strong parental advocacy guarantees), too many school boards, administrators, principals, and teachers continue to devalue the unrealized potential of students with disabilities. Even without NCLB, special education advocates have had to fight for “inclusion,” access to the general curriculum, and meaningful transition to adult life.

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NCLB virtually guarantees that the presence of special education students in a school will contribute to the school’s failure to make AYP. That danger, combined with the additional cost of implementing the one percent cap and the “students with the most significant cognitive disabilities” designation, could increase the already existing anti-special education bias. Because improved federal policies have not changed attitudes at the state and local levels, special educators remain concerned that the alternate-assessment cap based on alternative achievement standards may become a way to avoid appropriate AYP accountability. As long as providing services to special education students is perceived as a burden, school-level AYP for students with disabilities is likely to be a “damned if you do, damned if you don’t” proposition.

### **Beyond AYP**

Beyond the assessment system and the calculation of AYP are a number of other significant issues that directly impact the inclusion of students with disabilities in state AYP-related accountability systems.

**Quality Teachers.** Recent research has documented what educators and parents have long known: that children learn most and best from well-qualified, caring, and competent professional educators. However, in special education alone there is currently a shortage of at

least 40,000 qualified special educators, and those shortages are greatest in the districts with the highest poverty rates. Those shortages have a direct impact on AYP, and NCLB is silent about how states and school districts are to recruit a sufficient number of caring and competent special educators.

The support for the only federally supported national center focusing on the issue has just been reduced to \$500,000 a year, which translates to a meager \$10,000 per state. Such support will not permit states to guarantee that every student with a disability has a well-qualified and caring special education teacher. The funding levels make NCLB appear more concerned about state and local accountability systems than about securing the excellent teachers necessary to achieve improved student learning.

Federal and state government-required paperwork and overwhelming caseloads often make it difficult for special educators to use the strongest research-based practices. Such conditions are discouraging, and good teachers leave special education at almost twice the rate that other educators leave teaching in general. Because of the additional administrative burdens of defining breakouts and measuring AYP, NCLB is likely to exacerbate the teacher shortage in special education. NCLB requires public school teachers of core academic subjects to attain "highly qualified" status by the 2005–2006 school year. However, NCLB definitions do not include special education among core academic subjects, thus adding to the disincentives to entering the special education profession.

**Limited Resources, Competition, and Resentment.** Securing the resources needed to ensure that all students with disabilities reach proficiency on an achievement test will be challenging. To attain AYP, many students with disabilities are likely to require significantly more resources than are available today. But allocating extra resources to students with disabilities may well be perceived as taking resources away from other students, intensifying already existing negative attitudes toward special education.

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Successfully implementing an appropriate assessment and accountability system that includes students with disabilities will require general education teachers, related service personnel, paraprofessionals, administrators, parents, and students to cooperate in planning, application, and evaluation. Even with the best of intentions, intensified competition for limited resources will surely test that collaboration as schools move toward accountability in reading and math. Collaboration

broke down in many previous IDEA-related instances, and the students with disabilities were the victims. That same victimization is already occurring in communities across America with the implementation of NCLB's AYP provisions.

As AYP is implemented, special educators and parents feel the press of competing outcomes. How should they apportion limited time and resources among continued remedial efforts, collaborative planning for accommodations within core general education curriculums, and intense instruction in cognitive learning strategies? If a school's students with disabilities cannot reach the proficiency level of their age mates, NCLB punishes the school and the school district. And because the reason for that failure is the lack of adequate resources to implement NCLB fully, NCLB's punishments in effect target economically depressed rural and urban school districts where the need for positive reinforcement is greatest. Will students with disabilities become the scapegoats for AYP?

**Strong Research-Based Practice.** NCLB also assumes that there are valid, reliable research-based instructional practices that can eradicate the learning deficits of students with disabilities, and that school districts have disseminated those practices to educators in ways that will support their use in classrooms. Once again, though, it is simply not the case. Public policy is again out in front of research-based practice. Research has revealed many strong practices, but in other significant areas there is scant research-based evidence for practices that ameliorate the learning deficits of students with disabilities. NCLB's assumption that sufficient research-based practices have been identified and integrated into the curriculum is without foundation.

**Putting the Cart before the Horse.** In mandating assessments founded upon rigorous research, NCLB draws attention to three frustrating realities: The federal What Works Clearinghouse, designed to find and endorse strong research-based practices, is in its first year at this writing and still in the process of establishing the procedures and criteria it will use. But AYP has moved right ahead. In fact, there is still a considerable scholarly conversation occurring concerning what exactly constitutes acceptable research-based interventions and practices in special education and, for that matter, in education in general. But AYP has moved right ahead. There is ample evidence that most teachers are not prepared to use strong research-based interventions even in those limited areas in which they are known. But AYP has moved right ahead.

**Systemic Redesign of Our Schools.** Perhaps the determining uncertainty affecting the success of NCLB is whether school districts will systemically change from normative hierarchical systems to practitioner-based, child-centered systems. For well over a century, U.S. school systems have been modeled on hierarchical-normative industrial organi-

zations. NCLB's mandate that all students reach an identical level of pre-determined quality within a constant time span is perhaps the best evidence available that the normative model still dominates federal policymaker thinking on public schools.

The "Henry Ford" model simply will not work for special education. Special education, as a non-normative child-centered system, was created more than eighty years ago in direct response to the general education normative system that sorted out students with disabilities who did not fit the normative curriculum. The very thesis of NCLB—that all students must reach a given level of learning in reading and math as measured by a standardized test—is antithetical to the thesis of special education that students with disabilities must be the center of the learning focus and instruction must be individualized according to each student's unique needs.

There has been scant coordination among policymakers to structure an interface between NCLB and IDEA. Consequently, the "all means all" in NCLB does not conceptually relate to the "all means each and every" in IDEA. Debilitating complications at both state and local levels could remain for years. System-wide reforms will be needed to ensure that every student learns at appropriately high and challenging levels and that none is left behind.

What do local school systems look like when all students learn at appropriately high and challenging levels? What are the requirements of the governance structure and the administrative, curriculum, instruction, classroom, community, and support-services levels necessary to make AYP happen? Meeting the demands of AYP will require more than simple differentiated instruction or technology-based solutions; it will require that schools adopt a student-centered focus. It will require the systemic redesign of our educational system to ensure that all our decisions and resources are focused on challenging, successful learning outcomes for every child. But the system-centered focus is alive and well in NCLB.

Ironically, because NCLB will designate as failures most general education students as well as students with disabilities, it just might be the flaws in NCLB that push us to make that comprehensive and viable systemic redesign at last.

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*Drew Allbritten is executive director for the Council for Exceptional Children, where Richard Mainzer and Deborah Ziegler serve as associate executive directors.*